

In re:)
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) CASE NO. 05-11033-BKC-RAM
) CHAPTER 7
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) Debtor.
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The Court conducted a hearing on May 31, 2005, on Hialeah Housing Authority's ("HHA") Motion for Relief from the Automatic Stay (the "Stay Relief Motion") (CP# 10). HHA seeks stay relief to continue eviction proceedings in state court against the Debtor, a public housing tenant, based upon his default in the payment of prepetition rent.

After a preliminary hearing on the Stay Relief Motion on April 21, 2005, the Court entered an Order on April 25, 2005 (CP# 15) setting a briefing schedule and setting the May 31st hearing. Specifically, as announced at the April 21st hearing, the Court asked for briefing on the following legal issue: Does 11 U.S.C. §525(a) protect a debtor, who is a public housing tenant, from eviction based upon prepetition rent defaults.

After review of the comprehensive memoranda submitted by the parties, review of the statute and applicable case law, and consideration of the oral arguments presented at the May 31, 2005 hearing, the Court entered its findings and conclusions on the

record. In sum, the Court found persuasive the holding and reasoning in In re Stoltz, 315 F.3d 80 (2d Cir. 2002), the only United States Circuit Court of Appeals to address the issue. Consistent with prior unpublished decisions of the undersigned judge and a published decision by the district court in this district, In re Curry, 148 B.R. 966 (S.D.Fla. 1992), Stoltz held that §525(a) protects public housing debtor tenants from eviction on the basis of non-payment of discharged prepetition rent. Id. at 95.

In following Stoltz, this Court is expressly rejecting the contrary conclusion reached in cases including In re Valentin, 309 B.R. 715 (Bankr. E.D.Pa. 2004) and In re Bacon, 212 B.R. 66 (Bankr. E.D.Pa. 1997).

For the foregoing reasons, and the additional reasons stated on the record at the conclusion of the May 31st hearing, which are incorporated here by reference, it is -

ORDERED that HHA's Stay relief Motion is denied.

ORDERED in the Southern District of Florida this 2nd day of June, 2005.

ROBERT A. MARK
Chief U.S. Bankruptcy Judge

COPIES TO:
Clare A. Casas, Esq.
Jonathan K. Winer, Esq.